

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JUAN DUARTE and BETSY DUARTE, On Behalf
of Themselves and all Others Similarly Situated,

Plaintiffs,

-against-

UNITED STATES METALS REFINING
COMPANY, *et al.*,

Defendants.

Civil No.: 2:17-cv-01624-EP-MAH

Honorable Evelyn Padin
Honorable Michael A. Hammer

Return Date: May 1, 2023

**JOINT MOTION FOR PRELIMINARY
APPROVAL
OF CLASS ACTION SETTLEMENT**

TO: Melissa E. Rhoads, Acting Clerk
United States District Court
District of New Jersey
Martin Luther King Building
& U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

PLEASE TAKE NOTICE that on Monday, May 1, 2023, or on a date and time to be set by the Court, Defendants United States Metals Refining Company (“USMR”), Freeports Minerals Corporation (“FMC”), Freeport McMoran, Inc. (“FMI”), and Amax Realty Development, Inc. (“Amax”) (collectively “Defendants”) and Plaintiffs Juan Duarte and Betsy Duarte, individually and on behalf of those similarly situated (collectively “Settlement Class Representatives” or “Plaintiffs”), by and through their respective undersigned counsel, will jointly submit this Joint Motion for Preliminary Approval of the Class Action Settlement they have reached in this case. For the reasons set forth in the accompanying Memorandum in Support, Plaintiffs hereby move

the Court to, for settlement purposes only, certify the Settlement Class pursuant to Fed. R. Civ. P. 23(b)(3). Defendants are unopposed to certification of the Settlement Class.

For the reasons set forth in the accompanying Memorandum in Support Plaintiffs and Defendants hereby jointly move the Court to:

1. Order preliminary approval of the Class Action Settlement Agreement between Plaintiffs and Defendants;
2. Approve the Notices of Proposed Class Action Settlement and order notice of the Settlement to Class Members;
3. Appoint Steven J. German and Joel M. Rubenstein of German Rubenstein, LLP; Christopher T. Nidel and Jonathan Nace of Nidel & Nace PLLC; W. Mark Lanier, Richard D. Meadow, Alex Brown, and Christopher L. Gadoury of The Lanier Law Firm, P.C.; and John M. Vlasac, Jr. and Boris Shmaruk of Vlasac & Shmaruk LLC as Settlement Class Counsel;
4. Appoint JND Legal Administration as Settlement Administrator;
5. Set a hearing on the final approval of the Settlement Agreement; and
6. Grant such other relief as the Court deems necessary and appropriate.

PLEASE TAKE FURTHER NOTICE that Plaintiffs and Defendants shall rely on the Memorandum in Support, Declarations and Settlement Agreement with exhibits submitted in support of this Motion, and all other papers of record.

PLEASE TAKE FURTHER NOTICE that a proposed form of Order is submitted herewith.

PLEASE TAKE FURTHER NOTICE that the motion is being made returnable May 1, 2023.

For the reasons stated above, Plaintiffs request that the Court certify a Rule 23(b)(3) class for settlement purposes only (Defendants are unopposed), and the Parties jointly request that the Court preliminarily approve the Parties' proposed Class Action Settlement Agreement, approve the proposed class notice and order notice of the Settlement to eligible Class Members, and grant such other relief and orders as the Court deems necessary and appropriate.

March 28, 2023

Respectfully submitted,

/s/ David R. Kott
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